

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LETICIA CASTILLO AND]	CIVIL ACTION NO. _____
BERTHA LEMUS,]	
]	
<i>Plaintiffs,</i>]	
]	
v.]	
]	
ALKIRE SUBWAY, L.P., G.R.A.]	
ENTERPRISES, L.P., GOVIND]	
AGRAWAL, INC., AND GOVIND]	
AGRAWAL.,]	
]	
<i>Defendants.</i>]	
]	COLLECTIVE ACTION

ORIGINAL COLLECTIVE ACTION COMPLAINT

SUMMARY

1. Alkire Subway, L.P., G.R.A. Enterprises, L.P., Govind Agrawal, Inc., and Govind Agrawal (the Restaurants) do not pay overtime to their nonexempt employees. *See* 29 U.S.C. § 201, *et seq.*

2. Accordingly, Leticia Castillo and Bertha Lemus (the Restaurant Workers), bring this action to recover unpaid overtime wages, liquidated damages, attorney's fees and costs.

JURISDICTION AND VENUE

3. This Court has jurisdiction because the Restaurant Workers' claims arise under federal law.

4. Venue is proper because the defendants reside in this District and a substantial part of the acts and omissions giving rise to the Restaurant Workers' claims occurred in this District.

THE PARTIES

5. The Restaurant Workers are former employees of the Restaurants. Their consents to this action are attached as Exhibits A-B. The Restaurant Workers worked in Subway sandwich shops owned by the Restaurant Owners.

6. The class of similarly situated employees consists of employees who were paid less than \$455 per week, and who worked over forty hours in at least one workweek. They are referred to as the "Class Members."

7. Alkire Subway, L.P. is a Texas-registered organization. Alkire Subway, L.P., may be served with process by serving its registered agent, Govind Agrawal, 12603 S.W. Freeway, #166, Stafford, Texas 77477.

8. G.R.A. Enterprises, Inc., is a Texas corporation. G.R.A. Enterprises, Inc. may be served by serving its registered agent, Govind Agrawal, 12603 S.W. Freeway, #166, Stafford, Texas 77477.

9. Govind Agrawal, Inc. is a Texas corporation. Govind Agrawal, Inc. may be served with process by serving its registered agent, Govind Agrawal, 12603 S.W. Freeway, #166, Stafford, Texas 77477.

10. Govind Agrawal is an individual. He may be served with process at 12603 S.W. Freeway, #166, Stafford, Texas 77477.

COVERAGE FACTS

11. The Restaurants employed the Restaurant Workers within the meaning of the FLSA. *See 29 U.S.C. § 203(d).* The Restaurants suffered or permitted the Restaurant Workers to work, set their schedules, set their pay rates, provided their tools and equipment, and determined

their job locations. The Restaurants own or control the locations where the Restaurant Workers worked.

12. The Restaurant Workers were employed on a permanent basis. The Restaurant Workers' investment was nominal compared to the Restaurants' investment and the Restaurant Workers performed routine, unskilled tasks.

13. The Restaurants are an enterprise within the meaning of the FLSA because they perform related activities for a common business purpose. *See 29 U.S.C. § 203(r)(1).*

14. The Restaurants are an enterprise engaged in commerce or in the production of goods for commerce within the meaning of the FLSA. *See 29 U.S.C. § 203(s)(1).* The Restaurants' employees, including the Restaurant Workers, engage in commerce or in the production of goods for commerce. Further, the Restaurants' employees handle, sell, or otherwise work on goods or materials that have been moved in or produced for commerce. For example, the Restaurants' employees handle beverages, chips, cookies, sandwiches, bread, meat, cheese, vegetables, sauces, ovens, coolers, and cash registers.

15. For at least the past three years, the gross volume of sales made or business done by the Restaurants has exceeded \$500,000.

THE RESTAURANT WORKERS' ALLEGATIONS

16. The Restaurants own and operate dozens of Subway-branded sandwich restaurants. The Restaurant Workers prepared food, assisted customers, and cleaned the restaurants.

17. The Restaurant Workers earned less than \$455 per week.

18. The Restaurant Workers regularly worked in excess of forty hours per week.

19. The Restaurants kept records of the hours worked by the Restaurant Workers. The Restaurants, however, still failed to pay the Restaurant Workers one-and-one-half times their regular rates for hours worked in excess of forty hours per week.

20. The Restaurants knew or showed reckless disregard for whether their payroll scheme violated the FLSA.

COLLECTIVE ACTION ALLEGATIONS

21. The Restaurants also employed the Class Members. The Class Members performed job duties similar to the Restaurant Workers and were also paid less than \$455 per week.

22. The Class Members are owed overtime pay for the same reasons as the Restaurant Workers. The Restaurants' failure to properly pay overtime to the Restaurant Workers and the Class Members results from a common practice. Notice of this collective action is, therefore, properly sent to:

All employees who were paid less than \$455 in a week, who, in at least one workweek, worked more than 40 hours.

CAUSES OF ACTION

23. The Restaurant Workers incorporate the allegations in paragraphs 1-22 as if set forth here.

24. The Restaurants violated the FLSA by failing to pay the Restaurant Workers and Class Members overtime compensation for hours worked in excess of forty hours in a week. Accordingly, the Restaurant Workers and Class Members who worked more than forty hours in a week are entitled to recover their unpaid overtime.

25. The Restaurant Workers and Class Members are therefore entitled to an amount equal to their unpaid overtime wages as liquidated damages. They are also entitled to attorneys' fees and costs.

PRAYER

The Restaurant Workers and Class Members request that this Court award them:

1. damages for the full amount of their unpaid overtime compensation;
2. an equal amount as liquidated damages;
3. reasonable attorneys' fees, costs and expenses of this action;
4. post-judgment interest at the highest rates allowable by law; and
5. such other and further relief as may be allowed by law.

Respectfully submitted,

BRUCKNER BURCH PLLC

/S/ David I. Moulton

By: _____
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IN RE: OVERTIME ACTION AGAINST:	COLLECTIVE ACTION
]
]
ALKIRE SUBWAY, L.P., GRA ENTERPRISES, L.P., AND GOVIND AGRAWAL, INC.	<u>NOTICE OF CONSENT</u>
]

I am an employee currently or formerly employed by Alkire Subway, L.P., GRA Enterprises, L.P., Govind Agrawal, Inc. and/or any of their related entities. I hereby consent to be a party plaintiff in an action to collect unpaid wages. I agree to be bound by the Professional Services Agreement with Bruckner Burch PLLC and Charles Garrido.

Yo soy un empleado actualmente o antiguamente empleado por el Alkire Subway, L.P., GRA Enterprises, L.P., Govind Agrawal, Inc. y/o sus entidades asociadas. Por lo presente consiento ser un parte demandante en una acción para colectar sueldos no pagados. Estoy de acuerdo estar obligado por el Acuerdo de Servicios Profesionales con Bruckner Burch PLLC y Charles Garrido.



Signature / Firma

Leticia M. Castillo

Full Legal Name (print) / Nombre Completo

08-18-08

Date / Fecha

Send Via Mail or Fax to: Attn: Subway Overtime Action
Mandar por Correo o Fax: Bruckner Burch PLLC
1415 Louisiana Street, Suite 2125
Houston, Texas 77002
Phone: 713-877-8788
Fax: 713-877-8065

IN RE: OVERTIME ACTION AGAINST:

ALKIRE SUBWAY, L.P., GRA ENTERPRISES,
L.P., AND GOVIND AGRAWAL, INC.

COLLECTIVE ACTION

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Bertha H Lemus
Signature / Firma

Bertha H Lemus
Full Legal Name (print) / Nombre Completo

08-19-08
Date / Fecha

Send Via Mail or Fax to: Attn: Subway Overtime Action
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Houston, Texas 77002
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Exhibit B